

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOSEPH BENADO
CHARLOTTE BENADO,

Plaintiffs,

vs.

No. _____

THYSSEN KRUPP TKX LOGISTICS
FERNANDO FERNANDEZ,

Defendants.

COMPLAINT FOR PERSONAL INJURIES

COME NOW the Plaintiff, Joseph and Charlotte Benado, by and through their attorney of record, the Law Office of Richard A. Sandoval (Richard A. Sandoval, Esq.), and states the following for their causes of action:

1. Plaintiff is a resident of the Pueblo of Cochiti, County of Sandoval, State of New Mexico.
2. Upon information and belief, Defendants Thyssen Krupp Tkx Logistics are residents of the City of Northwood, State of Ohio.
3. Fernando Fernandez is the resident of the City of El Paso County of El Paso, State of Texas.
4. All acts complained of herein occurred in Sandoval County, New Mexico.
5. Jurisdiction and venue are proper in the United States District Court for the District Court of New Mexico pursuant to 28 U.S.C. Section 1332.

STATEMENT OF FACTS

6. Plaintiff(s), a seventy-two year old female and an eighty-one year old male were, lawfully traveling eastbound on State Road 22 with the right of way approaching the

Pueblo Gas station.

7. Defendant Fernando Fernandez, a thirty-six year old male, should have seen Plaintiffs but nevertheless pulled out from Pueblo Gas station onto the roadway entering east bound State Road 22 directly in front of Plaintiffs where the vehicles collided.

8. Defendant Fernando Fernandez admitted to Pueblo of Kewa Police Officer, that he entered the roadway.

9. In a diagram drafted after the accident, Defendant Fernando Fernandez demonstrated how Plaintiff collided with the back of his front wheels clearly indicating pulled out immediately in front of Plaintiff given her no time to stop.

10. Based upon information and belief, Defendant Thyssen Krupp Tkx Logistics is the owner of the vehicle that was involved in the collision driven by their employee, Fernando Fernandez, where he negligently failed to determine the proper distance in pulling onto State Road 22, contributing to the collision.

11. Based upon information and belief, DEFENDANT Thyssen Krupp Tkx Logistics is registered in Ohio which at all times material to this Complaint, employed, and/or managed Fernando Fernandez at least in part.

12. As a result of the collision, Plaintiff suffered personal injuries and Defendant and/or their agents have refused to pay for her medical bills or damage to their vehicle.

COUNT I
NEGLIGENCE AS TO ALL DEFENDANTS

13. Plaintiffs incorporate by reference as fully set forth herein each and every allegation contained in Paragraphs 1 through 12 of this Complaint.

14. Defendants owed Plaintiff the duty to exercise ordinary care to maintain and operate their vehicle in a safe condition.

15. Defendants breached the duty owed to Plaintiff because he knew or, by the exercise of reasonable care, operated the vehicle negligently; Defendant Fernando Fernandez was an unsafe driver.

16. Defendant Fernando Fernandez further breached her duty to Plaintiff by failing to maintain a proper lookout and operate his vehicle in a reasonable safe manner.

17. As a direct and proximate result of Defendants' negligent acts Plaintiff has suffered injuries, damages, and losses complained of herein.

18. All injuries suffered by Plaintiff relating to this incident, past, present and future, were due to the negligent acts and/or omissions of Defendant.

COUNT II
PUNITIVE DAMAGES AS TO ALL DEFENDANTS

19. Plaintiff incorporates by reference as fully set forth herein each and every allegation contained in Paragraphs 1 through 18 of this Complaint.

20. The conduct of Defendants was reckless, wanton, and with utter disregard for the rights, safety and/or consequences to the public, including Plaintiff and punitive damages should be awarded against Defendants to punish them and deter others against similar conduct.

COUNT III
NEGLIGENT TRAINING AND SUPERVISION

21. Plaintiffs incorporate by reference as fully set forth herein each and every allegation contained in Paragraphs 1 through 20 of this Complaint.

22. Defendants had a duty to properly supervise, educate, and train its employees, agents, and contractors regarding evaluation, treatment, monitoring, and administration.

23. Defendants failed to properly supervise, educate and train its employees, contractors, or agents regarding evaluation, treatment, monitoring, and administration

24. Defendants failure to properly train and supervise its employees, contractors, or agents in such a manner as alleged above directly caused the collision.

25. Defendants are liable for damages caused by the negligence of its employees while working within the scope of their employment in an amount not presently determinable but to be proven at the time of trial.

COUNT III- NEGLIGENCE PER SE

26. Plaintiff re-alleges paragraphs 1 through 25 of this Complaint as if set forth fully herein.

27. The conduct of Defendant Fernando Fernandez d/b/a Thyssen Krupp Tkx Logistics, is governed by various criminal provisions including those for failure to keep proper lookout and careless driving.

28. Defendants failed to operate and provide services that comply with valid and enforceable federal, state, and accepted professional standards and principals that apply to professionals providing services in such a vehicle.

WHEREFORE, Plaintiff prays that Judgment be entered in favor of Plaintiff, and against Defendants, in an amount to be proven at the time of trial, for compensatory damages, for costs associated with the bringing of this cause of action, for pre-judgment interest and post-judgment interest, for punitive damages, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ electronically

Richard A. Sandoval, Esq.
Sandoval Firm
200 West DeVargas Street, Suite 7
Santa Fe, NM 87501
(505) 795-7790